



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

GARY Z. THOMAS,  
Petitioner,

vs.

WARDEN KIRKLAND CORRECTIONAL  
INSTITUTION,  
Respondent.

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Civil Action No. 8:19-02590-MGL

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
AND DISMISSING PETITIONER'S CASE**

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Petitioner Gary Z. Thomas (Thomas), proceeding pro se, filed this action asserting a habeas corpus claim under 28 U.S.C. § 2254. This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the Thomas's petition be dismissed without prejudice and without requiring Respondent Warden of the Kirkland Correctional Institution (Respondent) to file a return. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 24, 2019. To date, Thomas has not filed any objections to the report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Thomas’s petition is **DISMISSED WITHOUT PREJUDICE** and without requiring Respondent to file a return.

**IT IS SO ORDERED.**

Signed this 6th day of April 2020 in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.